THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20239 of 2006

Dated:28.02.2007

Between:

Sri M. Basith Khan and others.

...PETITIONERS

AND

The District Panchayat Officer, Chittoor, and others.

...RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20239 of 2006

ORDER:

One M. Basith Khan of Kuppam filed instant writ petition seeking a writ of Mandamus declaring the action of the respondents in trying to remove mutton shop belonging to him situated at Kuppam Gram Panchayat, near RTC bus stop, as illegal and arbitrary. While the matter was coming up for admission, at the preliminary hearing, Basith Khan died and his wife and four sons came on record as legal representatives.

It is the alleged that Basith Khan was given shop admeasuring 77 sq. feet (11' X 7') in survey No.146/1 for running a mutton shop in 1977, duly collecting licence fee. He was running mutton shop since then. On 26.09.2006, the officials of Gram Panchayat made attempts to evict him from the shop without giving any notice. Apprehending coercive action, instant writ petition is filed.

Third respondent, namely, Panchayat Secretary, Kuppam Gram Panchayat, filed a counter-affidavit. The allegation that first petitioner was granted a shop on lease basis is denied. It is stated that first petitioner was running the mutton shop under a temporary roof by plastic cover for which licence was given by the Gram Panchayat. There is no pucca shop and first petitioner was selling merchandise for one or two hours a day. On 15.09.2006, the then Hon'ble Chief Minister laid foundation for construction of a shopping complex for beatification of the area and to augment the income. After death of

Basith Khan, there is no mutton shop at that place. It is also averred that as and when the shopping complex is completed, the requests for allotment of shops subject to approval of higher authority would be considered.

The petitioners have not placed any document to show that the Gram Panchayat granted lease of shop. The receipt dated 28.01.2006 relied on by them under which first petitioner statedly paid licence fee would not led to an inference that a lease was granted. Indeed in the note below the receipt, it was clearly mentioned that the receipt is not licence and the licence will be issued later. Secondly the counter averment that first petitioner was not given any shop and was permitted to sell mutton under temporary roof of plastic cover is not denied. Therefore, this Court holds that the petitioners have failed to demonstrate any right that can be enforced in a writ petition. Be that as it is, as and when the shopping complex is completed, the petitioners may approach the Gram Panchayat for allotment of a shop on lease basis and such request shall be considered by the Gram Panchayat in accordance with Law. If the petitioners desire to continue the business of selling mutton, they may approach the Gram Panchayat for allotment of a small vacant place in Kuppam for doing business.

The writ petition, with the above observations, is disposed of and the interim order granted on 26.09.2006 is vacated. No costs.

(V.V.S.RAO, J)

28th February, 2007

Note: Issue CC in one week

B/o

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